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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/646,479	08/23/2003	Thomas Remmler	5119.21A	9309
7590	02/18/2004		EXAMINER	
LaValle D. Ptak Law Office of LaValle Ptak 28435 N. 42nd St. Cave Creek, AZ 85331			GRILES, BETHANY L	
			ART UNIT	PAPER NUMBER
			3643	

DATE MAILED: 02/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/646,479	REMMLER, THOMAS	
	Examiner Bethany L. Griles	Art Unit 3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 23 August 2003.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-17 is/are pending in the application.

    4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s)        is/are allowed.

6) Claim(s) 1-17 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

    1. Certified copies of the priority documents have been received.

    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____ .

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Trevino US6067678.

3. Regarding claim 1, Trevino discloses a surgical tray 10 in which an animal is held in place in a dorsally recumbent position (figs 6 and 7), including in combination a shell 12 having a base 17 contoured to conform generally to the back, neck, and head regions of an animal, the shell further having opposite sides formed by raised sidewall portions 26, 28 extending above the base 17 in the vicinity of the head and thorax area of an animal placed in the surgical tray (elements 26 and 28 in figs 1 and 2), the raised sidewall portions forming a generally U-shaped cross sectional configuration (best illustrated in figures 1 and 3) with the base of the shell 17, with scapular shoulder rests 23 for an animal and openings adjacent the front and rear leg positions of an animal to be placed in the shell (adjacent to and slightly above elements 35 and 42, respectively), means to raise the base of the shell above a table surface onto which it is placed (see element 32 in figure 4a), a plurality of detachable leg straps 250 for positioning and holding the legs of the animal, wherein each detachable leg strap is led around the leg

of the animal and passed through a corresponding one of the openings 210 in the shell 17.

4. Regarding claims 2 and 11, Trevino discloses that the means to raise the shell above the table surface 32 comprise projections extending from the bottom of the shell 25 and unitarily formed with it (figure 4a).

5. Regarding claims 3 and 13 and 15, Trevino discloses at least one drainhole 210 therethrough, as fluid could readily drain down the sidewalls 26, 28 and out through element 210.

6. Regarding claims 4, 12, and 14, Trevino discloses a detachable leg strap 250 for each of the four legs of an animal.

7. Regarding claim 5, Trevino discloses that the raised sidewall portions 26, 28 forming the generally U-shaped cross-sectional configuration with the base of the shell is in the form of a "U" having diverging sides extending from the bight of the "U" (best illustrated in figure 1).

8. Regarding claims 6 and 16, Trevino discloses means 219 on the exterior of the shell for releasably securing each detachable leg strap 250 against movement.

9. Regarding claims 7 and 17, Trevino discloses that the means 219 for releasably securing the leg straps includes hook and loop fastener members (col 8, line 39).

10. Regarding claim 8, Trevino discloses that the shell is formed at least partially of a foam portion which, like almost all matter, is radiolucent to some degree (col 4, lines 1-5).

11. Regarding claim 9, Trevino discloses means on the exterior of the shell for releasably securing each detachable leg strap against movement (see attachment points of 250 at 210—obviously releasably attached; col 8, lines 34-44).

12. Regarding claim 10, Trevino discloses means for releasably securing the leg straps includes hook and loop fastener members ((col 8, line 39).

***Conclusion***

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Rice US5431623; Canady, Jr. US5213062; Remmler US6675741; Trevino et al. US5742963; Muhanna US6138306; Franco, III US4301791; Mykietiuch US4949713; Pearman et al. US3717128; Boisclair et al. US5619747 ; Webb US5709648 ; Engelman US5725486; Cummings et al. US5915334; May US5925005; Wang US6443918; Biering et al. DE3717128A1; Knorr et al. DE4030719A1 ; Carlin US4184451.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bethany L. Griles whose telephone number is 703.305.1839. The examiner can normally be reached on Monday through Friday 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 703.308.2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Bethany L. Griles  
Examiner  
Art Unit 3643

  
blg



Peter M. Poon  
Supervisory Patent Examiner  
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2/13/04